



**DEPARTMENT OF THE NAVY**  
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IN REPLY REFER TO  
ACQ 021  
16 Jan 02

MEMORANDUM FOR NAVFAC ACQUISITION PERSONNEL

Subj: CONTRACTING OFFICER DETERMINATION OF PRICE REASONABLENESS  
WHEN COST OR PRICING DATA WERE NOT OBTAINED (02-03)

Encl: (1) OASN (RD&A) Memorandum dtd Nov 28, 2001

1. Enclosure (1) is forwarded for your information and immediate implementation as appropriate.

A handwritten signature in black ink, appearing to read "M. Howard", is positioned above the name of the signatory.

MICHAEL F. HOWARD  
Director, Acquisition Strategic Programs



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MEMORANDUM FOR DISTRIBUTION

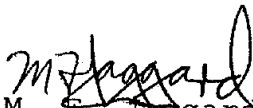
Subj: CONTRACTING OFFICER DETERMINATION OF PRICE REASONABLENESS  
WHEN COST OR PRICING DATA WERE NOT OBTAINED

Ref: (a) DODIG Audit Report D-2001-129 of May 30, 2001

Encl: (1) Recommendations and Guidance

During a recent audit conducted by the Office of the Inspector General of the Department of Defense (DODIG) of "Contracting Officer Determinations of Price Reasonableness When Cost or Pricing Data Were Not Obtained," numerous discrepancies were found and issues raised. In light of those findings, additional emphasis needs to be placed on documenting that the price is "fair and reasonable" in the Business Clearance Memorandum (BCM)/Price Negotiation Memorandum (PNM) and the contract file. Enclosure (1) contains a discussion of some of the findings, and a list of recommendations and guidance to contracting professionals.

Any questions or comments should be addressed to Mr. Ronald G. Ostrom (703) 602-2798, fax (703) 602-2117, or email (ostrom.ronald@hq.navy.mil).

  
M. F. Jaggard

Executive Director  
Acquisition and Business Management

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### Audit Environment:

The DODIG audit reviewed contract actions at five activities from each Service and three Defense Activities. Using the DD 350 database the DODIG selected from a population with the following parameters:

- (a) Actions over \$100,000 in value
- (b) Sole-source or competitive one-bid actions where cost or pricing data were not obtained.

### Audit Population Selected:

145 contract actions were reviewed, 27 of which were Navy contracts. Of those 27 contracts, 20 were found to have issues and as a result did not properly support or document a valid price reasonableness determination.

### Findings:

SUMMARY OF PRICE REASONABLENESS DETERMINATION ISSUES	Actions
1. Accepted catalog prices without additional review	9
2. Prior prices used were not justified as reasonable	5
3. Used competition pricing when no competition existed	1
4. Accepted cost that were not supported or warranted	5
Total Action	20

In two cases, the DODIG was able to compute an estimated overpayment amount.

### Recommendations and Guidance to Contracting Officers and Contract Specialists:

1. The Business Clearance Memorandum (BCM)/Pricing Negotiation Memorandum (PNM) for every contract action must contain a valid price reasonableness determination. When cost or pricing data is not obtained, documenting price reasonableness in the BCM/PNM requires more attention and the utilization of more than one price analysis technique to support the settlement price. As many techniques as necessary to support price reasonableness should be utilized and documented. Examples of possible supporting information include, but are not limited to:

Enclosure (1)

(a) A historical comparison with prices for the same or like items should be used whenever possible. The comparative analysis should include comments verifying the reasonableness of previous prices (FAR 15.404-1(b)(2)(ii)). Any difference between the item being procured and the item purchased previously should be documented as well as the impact of those differences on the price. The comparison should also address price changes and include an explanation of those changes.

(b) The use of a commercial price/parts list, in itself does not justify the price is fair and reasonable (FAR 15-403.3(c)). You must also confirm and document that quantities were sold at the prices listed on the price list and consider whether or not a price reduction is warranted because of the size of the government's purchase. The BCM/PNM must also document the differences between the commercial item and the item to be procured, if there are any differences.

(c) Compare the proposed price and the negotiated price with an independent government estimate (provide basis of estimate) or prices received through a market research (describe the market research conducted).

(d) Ensure FAR 52.215-20, "Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data," is included in all solicitations where cost or pricing data is not expected to be obtained.

(e) If a contractor refuses to provide data necessary to support a determination of price reasonableness, the issue should be elevated to higher management until the issue is resolved.

(f) Use the assistance of Defense Contract Audit Agency (DCAA)/Defense Contract Management Agency (DCMA) whenever possible to support price reasonableness determination. When DCAA/DCMA assistance is unavailable, internal technical support should be sought.

(g) Even in competitive procurements where multiple offers are received, it is important that the reasonableness of the negotiated price be supported and documented in the BCM/PNM whether through adequate price competition or other analysis.

(h) In competitive one-bid situations, ensure the BCM/PNM is fully documented justifying why you believe competition supports price reasonableness. Include copies of any related correspondence in the contract file that supports the expectation of multiple competitors. Also be sure to document the reason you, as the contracting officer, expected to have more than one bid. You should consider the financial investment needed by a contractor to produce a product that they may never have produced or not produced for a long time.

(i) BCM/PNM should include additional statements:

- (1) Explaining the absence of competition if only one source is solicited and acquisition is below the simplified acquisition threshold; and
- (2) Support the award decision if other than price-related factors were utilized in selecting the supplier.
- (3) In instances where only one source exists and that supplier quotes a minimum order price or quantity, which exceeds the government's requirement or where price reasonableness is questioned, advice should be sought from the requiring activity for possible increase of purchase quantity.

Management Emphasis:

1. When approving the BCM/PNM the approving official must ensure that the document as written (a) supports the exception (from FAR 15.403-1(c)(1) through (4)) for not obtaining cost or pricing data and (b) documents and justifies price reasonableness.

2. The following additional factors should be added to the Procurement Performance Measurement Assessment Program process and incorporated into internal training sessions:

(a) Was the exception utilized for not obtaining cost or pricing data valid and appropriately documented?

(b) Was price reasonableness justified and properly documented?

(c) Was enough data requested and provided by the contractor? If not, was the issue escalated to a higher level of management?

(d) Was urgency an issue? If yes, was it true urgency or caused by lack of proper planning?